

9/1/06



## **Special Claims Processing Guide FAQs**

These are some of the more frequently asked questions received concerning the Special Claims Guide. The questions and answers are organized in order of the Special Claims Guide format. As new questions and answers are added, they will be inserted into the appropriate section. The new questions and answers will be highlighted in blue in order to distinguish the old from the new additions. The date above will reflect the date of the most recent additions.

### **Section/Question/Answer**

#### **Chapter I General Information**

##### **1-2 Processing Responsibility**

**(Q 1.)** I am a Traditional CA. I attempted to use the HUD Intranet software to submit a Special Claim. My voucher has been rejected. What is the procedure for Traditional CAs in the submission of Special Claims?

**(Ans.1)** The HUD intranet application for Special Claims is ONLY used to provide an agent/owner a Claim Number when HUD administers the Section 8 contract. Therefore, neither Traditional CAs nor Performance-Based Contract Administrators can use the HUD intranet Special Applications to create a Special Claims number. The procedure for the creation of Special Claims IDs for contracts administered by the respective entities is identified below.

##### **HUD Administered Section 8 Contracts**

New Web Special Claims Application (intranet only).

New 14-digit Special Claims approval number replaces old 9-digit number.

Field Offices are required to use the new intranet application to process, review, and approve Special Claims submitted after June 30, 2004.

TRACS will only accept 14-digit approval number created by Special Claims Application for claims submitted on/after July 1, 2004.

### **Section 8 Contracts Administered By Traditional or Performance-Based Contract Administrators**

CAs use a manual and/or internal application for processing, reviewing and approving Special Claims

CAs create a 14 digit number using their internal application and/or manual process to create Special Claims Number

CAs must include "1299" in the 1st four digits of the 14 digit Claims Number.

Agents/Owners submit the voucher with the 14-digit Special Claims approval number created by the CA

### **1-5 Owner/Agent Claims Process**

#### **Section 1-5. B**

(Q 2.): May the CA require that a CA-prepared checklist be used? We can envision owners generating their own, which may or may not be complete, and insisting that it be accepted.

**(Ans. 2) The CA may require that its own CA prepared checklists be used as long as the CA prepared checklists contain the forms and documentation identified in the Special Claims Guide needed to file and support a special claim.**

#### **Section 1-5. G2**

(Q 3: It is understood that HUD's intent is to specify a date in instances of telephone requests, emails or faxes that may or may not contain accurate dates. If, however, the CA notifies the owner via a separate notice that clearly contains a "Notice Date: mm/dd/yy" followed by a line that reads "Required Resubmission Date: *Within 30 calendar days from date of this notice*".

Does this satisfy the "CA must specify the date" requirement?

**(Ans. 3) Yes, as long as the date for resubmission and the items to be submitted are clearly understood by both parties. Every effort should be made to request all missing items on the same day instead of a piecemeal approach. This will keep requested items from having different 30-day deadlines.**

### **Section 1-5.G3**

**(Q 4.):** There is inconsistency in the first and second sentences. First sentence “....owner must resubmit....within 30 calendar days from the date of the letter...”. Second sentence “....documents must be received by the date specified.....”

**(Ans. 4) Paragraph 1-5-G.3 of the Guide will be revised for clarification to read:**

**“The owner must resubmit the complete claim package within 30 calendar days from the date of the letter included with the returned claim package. If HUD or the CA elects not to return the package but to request via email, fax or telephone that the owner fax or mail the missing documents, the missing documents must be received by HUD or the CA within 30 calendar days from the date HUD or the CA contacted the owner. Any claims received after the 30 calendar day period will be denied and ineligible for resubmission.”**

### **Section 1-5. H 3**

The owner/agent must request payment for any approved claim(s) within 90 calendar days from the date of the approval decision.

**(Q 5.)** If owner/agent fails to request payment for any approved claim(s) within 90 calendar days from the date of the approval decision, what happens? Is the claim not to be paid after 90 days? Please clarify what a PBCA is to do if owner/agent hasn't submitted the claim on a voucher within 90 calendar days.

**(Ans. 5) If an owner fails to submit an approved claim through the voucher system after the 90-calendar day claim period then payment of the special claim will be denied.**

**(Q 6.)** The memo dated 7-5-06 from Lanier Hylton states, “This guide expands on the guidance provided in Chapter 9 of HUD Handbook 4350.3 REV-1.” However, there are contradictions between the Special Claims Guide and Chapter 9. Please clarify which is the guiding document.

Example: Chapter 9 states 45 business to process and the special claim guide states 30 calendar days.

**(Ans. 6) HUD Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, is currently under revision and Paragraph 9-14 will be changed to reflect the 30-calendar day**

**requirement, which is currently stated in the Special Claims Guide. Therefore the Special Claims Guide is the controlling document.**

**(Q 7.)** If a claim is submitted incomplete and the owner/agent is asked to provide additional information, does the processing time begin again with the date the additional information is received? For example, the CA receives a claim on August 1<sup>st</sup>, and the claim is returned to the owner/agent on August 16<sup>th</sup>. The owner/agent resubmits the claim on September 5<sup>th</sup>. Does the CA then have until October 5<sup>th</sup> to process the claim?

**(Ans. 7) Yes, the time period for review is 30 calendar days from the date a complete special claim package is received.**

#### **Section 1-5. I**

**(Q 8.)** How stringent is the 90-calendar day requirement from the perspective of the voucher processing IBPS task? For example, if a claim has an approval date of 4/30/2006, and the CA receives an electronic voucher (regardless of the voucher month) on 8/31/2006, this would be 92 days. Day 90 was a Saturday. How much leeway is given here, and what ramifications are there if the 90 calendar day requirement is not enforced by a CA? What if it is enforced? Is this an action that can be appealed by an owner?

**(Ans. 8) The 90 calendar day time period is to prevent owners from delaying the request for payment for long periods of time after approval of the special claims and risk funds not being available for payment of the claims. If the 90<sup>th</sup> calendar day occurs on a weekend or holiday then the next business day is acceptable. The CA should not be waiting in perpetuity for a special claims submission but has a reasonable amount of flexibility where the time period for submission falls on a weekend or holiday.**

#### **Section 1-6 HUD or CA Claim Review Process**

##### **Section 1-6. C-2 and C-3**

**(Q 9.)** Multiple claims of the same type must be processed together. Given this new requirement, should an owner's submission of a 52670 A, Part 2 that combines claims of different types be considered an incomplete or denied package?

**(Ans. 9) No. The form HUD-52670 A, Part 2 is merely a schedule that summarizes different types of claims, which are submitted in the individual forms HUD-5271 A, B, C, and D. By listing special claims of different types on the form 52670 A, Part 2 does not mean that the**

**claims are being combined. The forms HUD-5271 A, B, C, and D are each considered one separate claim.**

**(Q 10.)** This guidebook appears to have removed the requirement of multiple claims on a unit. Previous guidebook draft stated, “all special claims for vacancy loss and unpaid rent and tenant damages associated with a particular vacancy and tenant are to be submitted together”. Is this no longer a requirement or was it omitted by mistake?

**(Ans. 10) Submission of Special Claims for Vacancy and Special Claims for Unpaid Rent/Damages at the same time is not a requirement. However, as stated in paragraph 5-3.E “If a claim is also being made for unpaid rent and other charges due under the lease for the same unit and tenant, the claim for tenant damages must be calculated on the same form HUD-52671-A and filed as two claims in the same voucher.”**

#### **Section 1-6. C-3**

**(Q 11.)** Section 1-6, C-3 on page 5 of the guide states that a unique claim ID must be assigned for each claim type (rent-up vacancy, regular vacancy, debt service, unpaid rent, or damages). Section 5-3, E on page 27 states that claims for unpaid rent and other charges due under the lease and tenant damages must be calculated on the same form HUD-52671-A and filed as one claim. Should it be processed by the CA with 2 unique claim ID’s (one for unpaid rent and other charges under the lease, and one for tenant damages) or one claim ID?

**(Ans. 11) The Guide will be revised to state that the CA must separately identify approved amounts for each type of claim (rent-up vacancy, regular vacancy, debt service, unpaid rent, or damages). If that can be done using one claim ID, it is not necessary for the CA to assign different claim IDs for each type of claim.**

**(Q 12.)** If an owner/agent files a claim for one unit and one tenant that contains unpaid rent, damages, and regular vacancy, will the CA have to assign three different claim ID’s for that one unit?

**(Ans. 12) No. The Guide will be revised to state that the CA must separately identify approved amounts for each type of claim (rent-up vacancy, regular vacancy, debt service, unpaid rent, or damages). If that can be done using one claim ID, it is not necessary for the CA to assign different claim IDs for each type of claim.**

**Section 1-6. D**

(Q 13.) As long as the CA clearly indicates the reason why a claim is being changed, and also indicates the status (approved, revised, or denied) on CA-prepared 52670 A, Part 2 and 52671 forms, may the CA submit these forms to the owner rather than sending back the originally submitted and marked up owner forms?

**(Ans. 13) Yes, as long as this process is acceptable with the owner.**

(Q 14.) In cases where a claim is approved without any changes, is it necessary for the CA to send a separate approval letter? The 52670 and 52671 forms would be marked as approved with the Claim ID, signed, dated and sent to the owner.

**(Ans. 14) No, a separate approval letter does not have to be sent to the owner.**

**Chapter 3 Special Claims for Vacancy Loss After Rent Up**

**Section 3-3. C-7 and Section 3-5. D**

(Q 15.) If the owner is properly using a waiting list, and the vacancy is filled from the waiting list, it appears there's no requirement to request proof of advertising or marketing efforts. Is this correct?

**(Ans. 15) Yes.**

(Q 16.) Chapter 3 Regular Vacancy - Section 3-5 A states *Verify that the correct amount of the security deposit was collected from the tenant at move-in*. Since there is no requirement to automatically deduct the amount of the security deposit from a claim for Vacancy Loss (as there is with Unpaid Rent and Damages), what action should be taken if the correct amount was not collected?

**(Ans. 16) The Claim amount should be reduced by the amount of the security deposit that was not collected. The form HUD-52671 C includes a provision to deduct any amount paid by security deposits. The security deposit information would be required when a tenant moves out without proper notice, and the security deposit is sufficient to cover unpaid rent and damages, as well as part of the vacancy loss.**

**Section 3-5. D**

"If the unit is not leased from the waiting list, review documentation of advertisements or invoices for advertising expenses that support that marketing was undertaken and substantiates the date marketing occurred.

If the waiting list is closed, it is not necessary to review the owner's/agent's marketing and outreach methods."

**(Q 17)** So is it safe to assume that as long as the unit is leased from the waiting list, we do not have to review advertising efforts when processing a claim?

**(Ans. 17)** Yes.

### **Section 3-5. E**

**(Q 18.)** The 4350.3 REV-1 indicates that the owner doesn't have to contact the next applicant on the waiting list until a unit is vacant, but the special claims guide indicates that owners need to "work" the waiting list ahead of time, based on the project's average turnover and other knowledge of the property.

Are we going to be able to deny a claim, based on an owner not "working" the waiting list, given the language in the 4350.3 REV-1, or will they just be able to cite the handbook?

**(Ans. 18)** Handbook 4350.3 REV-1, Ch. 9, par. 9-14.D.2.e states that the owner must take all feasible actions to fill the vacancy, but it does not state at what point the applicants must be contacted. Ch. 4, par. 4-15.A (4350.3 REV-1) states that once a unit size and preference order is determined owner must *select* applicants from the waiting list, and determine eligibility if that has not already been done. This implies that owners should be "working" the waiting lists. The waiting list should be properly documented to indicate that applicants are contacted in a timely manner, regardless of when the applicant was placed on the waiting list. This is something that HUD or the CA should review as part of the special claims process, as well as during an MOR.

**Note:** In cases where a selected applicant was placed on the waiting list after the unit was vacated, the waiting list should be noted as to why advertisements were not necessary. This may occur in cases where the unit turnover is high. If there is an excessive length of time between the time the last person was placed on the waiting list before the unit was vacated, and the date the selected applicant was placed on the waiting list, advertising documentation should be submitted.

## Chapter 5 Unpaid Rent, Tenant Damages and Other Charges

### Section 5-2. D-1

**(Q 19)** The guide changes the rules for unpaid rent and damage claims by allowing a claim to be processed when the full security deposit has not been collected and reducing the claim by the difference between the required deposit and the one collected. When can we expect a revised form to incorporate this change? What are O/As to do in the meantime--use the old form and manually change the numbers? In this regard, there are two cases--where the OA collected less than the required deposit and where the OA collected more. We will need to know how to treat each case.

1. The owner/agent collected the appropriate security deposit from the tenant. If the owner/agent did not collect the appropriate security deposit from the tenant, the claim will be reduced by the amount of the security deposit the owner should have collected from the tenant.

**(Ans. 19)** Form HUD 52671-A will be revised to reflect the correct amount of the security deposit to be collected. In the mean time you should enter the higher of the amount of security deposit required, or the amount of the security deposit actually collected in line 1 of form HUD 52671-A. This will properly reduce the amount of the claim by the security deposit that was not collected, as well as any excess security deposit collected. Until form HUD-52671-A is revised, the O/A can manually strike through the words in the certification that state: “(a) I collected the appropriate security deposit according to Chapter 6, Section 1, page 6-11, figure 6-3. “

### Section 5-3. D-2

**(Q 20.)** Section 5-3, D-2 on page 26 of the guide states that owner/agents must certify the damage claim is not the result of normal wear and tear. Is this some type of separate written certification that the owner/agent must provide, or is the fact that the form HUD-52671-A that claims the damage amount is signed by the owner/agent sufficient certification?

**(Ans. 20)** The owner’s signature on HUD-52671-A is sufficient.